

REMARKS

In response to the Restriction Requirement dated January 28, 2005, Applicants hereby elect with traverse Group I, containing claims 1-16.

The Applicants traverse on the basis that the Office Action *does not* explain how “the product as claimed can be made by a materially different process.”

The Office Action asserts that, by switching the order of deposition of the first and second organic layers in claim 17, the product of claim 1 can be made by a materially different process. It is true that claim 1 does not specify the order of the first and second organic layers between the electrode, and claim 17 does. However, the adjectives used to describe the first and second organic layers of claim 17 are general, such that switching the order of deposition as suggested results in *no material difference*. The proposed alternate process is, in fact, *identical* to the claimed process – while the adjectives are different, the adjectives are general and interchangeable.

Specifically, claim 17 requires that the following be provided / deposited, in order:

- (a) a first electrode;
- (b) first and second organic materials, at least 50% first organic material
- (c) first and second organic materials, at least 50% second organic material
- (d) a second electrode.

The Office Action suggests that switching the order of (b) and (c):

results in the device of claim 1 (which is true, because claim 1 does not specify order of organic layers); and

is materially different (which is *not* true)

With the proposed switch, the process would require that the following be deposited / provided, in order:

- (a) a first electrode;
- (c) first and second organic materials, at least 50% second organic material
- (b) first and second organic materials, at least 50% first organic material
- (d) a second electrode.

However, by switching the general adjectives used to describe the organic materials (i.e., by interchanging “first” and “second” adjectives for the organic materials), it can be seen that this proposed process is, in fact, identical to the original process of claim 17 and is not materially different. These adjectives do *not* specify order, but merely specify different materials, i.e., material A and material B, so it can be readily seen that the proposed switch does not result in a material difference:

- (a) a first electrode;
- (e b) ~~first and second~~ second and first organic materials, at least 50% ~~second~~ first organic material
- (b c) ~~first and second~~ second and first organic materials, at least 50% ~~first~~ second organic material
- (d) a second electrode.

The process suggested by the Office Action as “materially different” from the process of claim 17 is, in fact, identical to the process of claim 17. As a result, the office action fails to show how the product of claim 1 can be made by a process materially different from that of claim 17, and the restriction requirement is improper.

In addition, the subject matter of claim 17 and claim 1 is so closely related that there is no serious burden associated with searching and examining both groups of claims at the same time, such that the restriction requirement is improper. MPEP 803.


CONCLUSION

For the reasons explained above, the Applicants respectfully request reconsideration and withdrawal of the restriction requirement. The Examiner is invited to contact the undersigned at (202) 220-4227 to discuss any matter concerning this application.

The Office is authorized to any fees due under 37 CFR §§ 1.16, 1.17 or 1.136 or credit any overpayments to Deposit Account 11-0600.

Respectfully submitted,

Dated: February 16, 2005



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